

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA . CRIMINAL ACTION NO.
 . 4:17-CR-058-Y-1
V. .
 . Fort Worth, Texas
JORDAN LEE BELL . November 14, 2017

TRANSCRIPT OF PROCEEDINGS
(Sentencing Hearing)
BEFORE THE HONORABLE TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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P R O C E E D I N G S

(Commencing, 10:05 a.m.)

THE COURT: We have a sentencing docket this morning as well. We'll begin with the sentencing of Jordan Lee Bell, Case Number 4:17-CR-058-Y, United States of America versus Jordan Lee Bell.

Are the parties ready to proceed?

MR. LOWE: Ready, Your Honor.

MS. FAHEY: Yes, Your Honor, Megan Fahey for the United States.

THE COURT: Could the attorneys approach just briefly?

(Off-the-record discussion at the bench at this time)

THE COURT: Mr. Bell, please acknowledge your presence in court for the record by stating your full name?

DEFENDANT BELL: Jordan Lee Bell.

THE COURT: Mr. Bell, you appeared before Magistrate Judge Jeffrey Cureton on June 14, 2017, at which time you entered a plea of guilty to Count 1 of the indictment charging you with possession of a visual depiction of a minor engaged in sexually explicit conduct, in violation of 18, United States Code, Section 2252(a)(4)(B), and a plea of true to the forfeiture notice pursuant to 18, United States Code, Section 2253.

On that date, Judge Cureton found that your plea of guilty

1 was a knowing and voluntary plea supported by an independent
2 basis in fact containing each of the essential elements of the
3 offense. You told him at that time that you understood the
4 elements of the offense, agreed to the accuracy of the factual
5 resume, and admitted that you committed all essential elements
6 of the offense. Accordingly, on June 29, 2017, I entered an
7 order accepting your plea and adjudging you guilty of the
8 crime alleged in the indictment against you.

9 This plea of guilty was taken pursuant to a plea
10 agreement. The Court is inclined to reject the plea agreement
11 but before finally deciding to do so will now give the parties
12 the opportunity to convince the Court that the agreed sentence
13 departs from the guideline range for justifiable reason.

14 Let's begin with the government, Ms. Fahey. You may
15 proceed.

16 MS. FAHEY: Yes, Your Honor.

17 We have no evidence to offer. Just as way of an
18 explanation, the reason we believe this is an appropriate
19 sentence, we anticipated the guideline range to be about six
20 to eight years and discounted that based on his age. The plea
21 agreement is solely a reflection of the fact that the
22 defendant is 18 years old and didn't finish his senior year in
23 high school because he was in federal custody.

24 THE COURT: Okay. So you were anticipating an
25 imprisonment range under the guidelines of substantially less

1 than what it turned out to be?

2 MS. FAHEY: Yes, Your Honor. We weren't anticipating
3 all of the enhancements, mainly, the additional five points
4 for receiving valuable consideration in exchange for the --

5 THE COURT: All right. And, Mr. Love, you may now
6 proceed -- Lowe, pardon me. Mr. Lowe, you may now proceed.

7 MR. LOWE: I call Dr. Lewis, Frank Lewis.

8 THE COURT: All right.

9 Good morning, sir.

10 THE WITNESS: Good morning, Judge.

11 THE COURT: Please raise your right hand and be
12 sworn.

13 (Witness sworn by the Court)

14 THE COURT: Please be seated, sir.

15 You may proceed.

16 MR. LOWE: Thank you, Judge.

17 FRANKLIN D. LEWIS, Ph.D, testified under oath as follows:

18 **DIRECT EXAMINATION**

19 BY MR. LOWE:

20 Q. Could you please state your name?

21 A. Franklin D. Lewis, Ph.D.

22 Q. Dr. Lewis, what do you do for a living?

23 A. I'm a clinical and forensic psychologist in Dallas.

24 Q. All right. And do you have any area of specialization
25 that you work in?

1 A. Yes, I do. I work in the area of sex offenses. I work
2 with both adolescents and adults.

3 Q. How long have you been doing that?

4 A. I've been doing this for about 40 years. I also was the
5 chief psychologist for the Dallas County Jail for 17 years.

6 MR. LOWE: Judge, can I approach the witness?

7 THE COURT: Yes.

8 BY MR. LOWE:

9 Q. I'm showing you what's been marked as Defendant's Exhibit
10 Number 1. I have previously shown a copy of this to the
11 United States Attorney in the case.

12 Is that a fair and accurate representation of your
13 educational background?

14 A. It is.

15 MR. LOWE: I offer Defendant's Number 1.

16 THE COURT: Is there objection?

17 MS. FAHEY: No, Your Honor.

18 THE COURT: It's a vitae?

19 MR. LOWE: Yes, Judge.

20 THE COURT: Thank you, sir.

21 MR. LOWE: Thank you.

22 BY MR. LOWE:

23 Q. Dr. Lewis, can you please describe for the judge the types
24 of people that you're supervising currently in treatment, the
25 types of offenses they have committed?

1 A. Yes. They range all the way from online solicitation of a
2 minor to public lewdness, DWI. Mainly, they come out of the
3 courts, referrals by the courts.

4 Q. So are you in contact with probation departments and
5 courts on a regular basis?

6 A. Yes. I work with the probation departments in both Dallas
7 and Tarrant County and parole.

8 Q. Okay. So you have also supervised folks who have been
9 sentenced to the penitentiary and then come out on parole?

10 A. Yes.

11 Q. In the federal system, it's called supervised release, but
12 it's a similar type of supervision.

13 Did you meet with Jordan Bell at any point?

14 A. I did.

15 Q. How many times did you meet with Jordan Bell?

16 A. I met with him seven or eight times in February, March of
17 2017.

18 Q. So that's prior to him being arrested in this case?

19 A. Correct.

20 Q. What did you do with Jordan Bell when you met with him the
21 first time?

22 A. Well, when I met him the first time, I took kind of a
23 typical history, and then the second time I administered a
24 psychological test to see what his current psychological
25 functioning was, and then I gave feedback. I also met with

1 his father in terms of gathering family history.

2 THE COURT: Could I get a little context here?

3 You say that Dr. Lewis met with him seven or eight times
4 in February and March of this year, correct?

5 THE WITNESS: Yes.

6 THE COURT: Of this year?

7 THE WITNESS: Yes.

8 THE COURT: What caused this treatment or meeting?

9 MR. LOWE: I referred -- I'll make that clear. I'm
10 sorry.

11 THE COURT: Okay.

12 BY MR. LOWE:

13 Q. How did Jordan Bell come to you in the first place?

14 A. You referred to him for evaluations and independent
15 recommendations.

16 Q. Okay. After I made that referral, was I a part of the
17 treatment process or guiding you or telling you to do anything
18 or not do anything?

19 A. No, you didn't. You just asked for my opinion.

20 Q. All right. And you did eventually come up with an
21 opinion. You have a report that you prepared in this case?

22 A. I did.

23 MR. LOWE: Okay. May I approach, Judge?

24 THE COURT: Yes, sir.

25 BY MR. LOWE:

1 Q. I'm showing you what's been marked as Defendant's Number
2 2. I previously tendered it and have shown it to the U.S.
3 Attorney in the case.

4 Is this an accurate representation?

5 A. Yes. It's an accurate representation.

6 MR. LOWE: I'll offer 2.

7 THE COURT: Any objection?

8 MS. FAHEY: No objections, Your Honor.

9 THE COURT: It's admitted.

10 Thank you, sir.

11 MR. LOWE: Thank you, Judge.

12 BY MR. LOWE:

13 Q. So the original test that you administered to Jordan Bell,
14 what test was that?

15 A. It's called the Millon Multiaxial Clinical Inventory,
16 MCMI.

17 Q. Can you describe for the judge what that test is?

18 A. Yes. This is a test measuring various personality
19 dimensions as well as to determine the degree that which a
20 client might fall within a normal range or outside of that
21 range.

22 Q. And what are the different results that you can get on a
23 test like that that would be relevant to treatment?

24 A. Well, one reason I wanted to give it, as always, I wanted
25 to see, number one, is his thoughts based in reality. That

1 is, he's not schizophrenic or something like that.

2 Number two, I'm very interested in all kinds of court
3 cases to the degree in which sociopathy exists.

4 Q. What is sociopathy?

5 A. Sociopathy is those clusters of characteristics that
6 people tend to exploit others or behaviors --

7 THE COURT: Tend to do what, sir? I didn't
8 understand you. Tend to do what?

9 THE WITNESS: Exploit others for their own needs.

10 And one reason I'm very interested in this particular
11 dimension is -- you know, there is an old kind of wisdom that
12 sociopaths cannot be treated. So I'm looking to see what
13 degree of sociopathy is there. I personally think they can be
14 treated, but --

15 BY MR. LOWE:

16 Q. Okay. And did you see an indication of sociopathy
17 according to the Millon test?

18 A. Sociopathy is very low. It's in the zero to tenth
19 percentile.

20 Q. Okay. And then what conclusion did you draw from the
21 Millon test?

22 A. Well, the conclusion I drew from that was, first of all,
23 he felt quite guilty for what he did. Second place, that he
24 had the willingness and the strength to benefit from a
25 treatment program. Also, that there is a degree that he wants

1 to be a responsible citizen. He also owned up to the charges
2 right away. He didn't try to deny. So that gives us a degree
3 of reliability in terms of his being truthful.

4 Q. What happened next after you administered the Millon test?
5 What was the next test you did?

6 A. Well, I brought him into -- asked him if he would be
7 willing to begin treatment, and he said he would be. So I
8 initiated treatment after about three sessions.

9 Q. When you say three sessions, what does that mean?

10 A. Three clinical sessions in which I assess him.

11 Q. So that's you and Jordan Bell one-on-one together?

12 A. Yes.

13 Q. That's not a group session?

14 A. No, it's not a group.

15 Q. Okay. And after those three evaluations or assessment
16 sessions with Jordan one-on-one, what did you do next with
17 Jordan Bell?

18 A. I accepted him into treatment, individual treatment, in
19 order to further understand how he functioned and tried to
20 help guide him towards a more healthy way of behavior and in a
21 way towards growth. I also have a background in
22 rehabilitation. I'm very interested in helping people
23 rehabilitate themselves.

24 Q. And throughout the time that you met with Jordan Bell, was
25 he cooperative with you?

1 A. He was.

2 Q. Did he show any indication of any impediment to being
3 treated later that you saw?

4 A. He showed that he was willing to do whatever it was in
5 order to understand himself and to get this behind him. Also,
6 I determined that whatever issues -- whatever requirements of
7 the treatment program or of the Court, that he would be
8 compliant with those conditions.

9 Q. And the Court has certain conditions that Mr. Bell will
10 have to follow regardless of what his sentence will be. One
11 of those conditions I expect will be that he has to
12 participate in a sex offender treatment program. As I
13 understand from your testimony, you administer a program like
14 that. Is that correct?

15 A. I do.

16 Q. Can you describe for the Court what that means, what that
17 entails?

18 A. Yes. That entails a number of things. First of all,
19 modules address certain things. For example, if he were to
20 deny the offense, there is a module for denial. There is a
21 module aimed at trying to understand why did he do what he
22 did.

23 The other thing is -- the main goal, because he was 18,
24 was to help him develop in a healthy psycho sexual way. He
25 had very little experience from a sexual point of view, and

1 the two experiences he did have, he was trying to determine
2 whether or not he may be gay or whether or not he was
3 straight.

4 Q. And so those are things that you can work on in your
5 group?

6 A. Or individually.

7 Q. Or individually.

8 In his case, would he be in a group if he were supervised
9 by you, or would he be individually supervised?

10 A. I would supervise him individually. At one point I would
11 move him into a group.

12 Q. And what are the other things that focus on -- whether it
13 be parole or probation or supervised release, what are the
14 other things that you do to ensure that those individuals in
15 your group therapy are compliant with the therapy?

16 A. Well, one thing we send them out for polygraphs.

17 Q. And what exactly does that mean? Why do you do that?

18 A. Well, to see if they are being honest in terms of what it
19 is we're trying to measure. For example, if he's restricted
20 in terms of not accessing the internet, then we can send them
21 out for a polygraph. Have you or have you not checked this
22 condition with your probation or parole?

23 Q. Okay.

24 A. Polygraphs -- there are other types of polygraphs.

25 Monitored polygraphs, for example, is having to do with any

1 kind of sexual activity, which he is currently engaged in, and
2 that is always aimed at age appropriate behavior.

3 Q. What about maintenance polygraphs concerning access to
4 children?

5 A. Maintenance polygraph is a polygraph aimed at all
6 conditions of probation and parole, and if part of that is
7 that you cannot be around children of a certain age, that is
8 considered a maintenance polygraph.

9 Q. If somebody fails a maintenance polygraph or is unable to
10 complete your treatment program, what is your next step as the
11 head of that program?

12 A. Well, first of all, I would talk with the probation or
13 parole officer, and then we would make a determination how
14 quick he would take the next maintenance polygraph. Should he
15 fail another maintenance polygraph, then we might suggest a
16 period of jail time in order to get his attention.

17 Q. And you're willing to do that, are you not?

18 A. Oh, yes.

19 Q. Okay. In this case with regard to Jordan Bell, do you
20 have any opinion concerning whether he would be compliant or
21 successful in sex offender treatment?

22 A. I think he would be compliant with all conditions of
23 treatment should he be granted probation or parole.

24 Q. And is there any research or literature concerning the
25 recidivism rate concerning individuals who have completed the

1 program?

2 A. There is quite a bit. The number one is by Carl Hansen,
3 the Canadian psychiatrist who runs treatment programs. What
4 we are finding out is that if a person completes a supervised
5 treatment program, the recidivism rate is very low. It will
6 vary somewhere from four to seven or eight percent.

7 Q. Okay. And in your opinion, you believe that Jordan Bell
8 would be a candidate or somebody who could complete or would
9 complete a program like that?

10 A. I do.

11 MR. LOWE: I'll pass the witness.

12 MS. FAHEY: I have no questions.

13 THE COURT: You may step down, sir.

14 THE WITNESS: Yes, sir.

15 MR. LOWE: Can this witness be excused, Your Honor?

16 THE COURT: Yes. You're free to go as well, sir.

17 THE WITNESS: Thank you.

18 MR. LOWE: I'll call Stephen Bell.

19 THE COURT: Before you do, the question I had that
20 was not answered is, why did you get him involved at the point
21 you did? He had not yet been charged, but you must have
22 had some --

23 MR. LOWE: I'm sorry. I didn't make that clear.

24 There was a search warrant that was run in February, and
25 as soon as that happened, the Bell family came to hire me, and

1 the first thing I recommended was --

2 THE COURT: Okay.

3 MR. LOWE: So they were all very forthcoming about
4 what happened. There was no --

5 THE COURT: I just need to know --

6 MR. LOWE: The sequence of events.

7 THE COURT: The sequence, yes, sir. Thank you.

8 MR. LOWE: I'm sorry about that.

9 And, Judge, in lieu of Stephen Bell giving testimony,
10 would it be okay if he just narrated the statement that he's
11 prepared?

12 THE COURT: Sure.

13 Good morning, sir.

14 MR. BELL: Good morning.

15 THE COURT: If you're going to read, that's fine, but
16 people tend to go too fast, and I'm slow of ear and she's slow
17 as well.

18 MR. BELL: Yes, sir. I am guilty of that when I
19 read.

20 THE COURT: Okay. All right.

21 MR. BELL: I'll do my best effort to slow down. I
22 actually planned on memorizing or reciting it to you.
23 However, I felt I was going to miss something.

24 THE COURT: No, don't do that. I'm happy to hear you
25 read it. I know you gave it a lot of thought.

1 MR. BELL: I did, Your Honor. Thank you for allowing
2 me to do this, first off.

3 I'm Jordan's father, Stephen Bell. I've been married to
4 my wife, Tricia, for 23 years. We have three children
5 together. Matthew, our oldest son, he's an IT manager at a
6 distribution company down in Mansfield right next door to
7 where we live.

8 Our daughter, Sierra, she'll graduate from UTA next month,
9 December 15. She's completing a degree in linguistics, and
10 she's already enrolled herself into a graduate program to
11 follow that.

12 THE COURT: And you know I got a letter from her,
13 right?

14 MR. BELL: Yes, sir, I do.

15 THE COURT: Okay.

16 MR. BELL: And then, as you know, Jordan.

17 So for me, a son of a career military man, I've been in
18 the air force for the last 23 years. I'm currently the
19 maintenance superintendent right out here at the 301st Fighter
20 Wing here in Fort Worth. Tricia is an elementary school
21 teacher in Grand Prairie and a TCU alum.

22 Jordan was born while we were stationed at Hill Air Force
23 Base, Utah. That was my first duty station when I entered
24 active duty.

25 Growing up Jordan was very well behaved, reserved, very

1 smart. He's never had an issue at home or at school.
2 Typically, sat in advanced classes. He's very respectful,
3 very loving with the family. Never hesitates to help out.

4 Due to my job, he stepped up as the man of the house
5 during my deployments multiple times, never grumbled as I
6 missed birthdays, Thanksgiving, Christmas, first day of
7 school, last day of school, and, sadly, sometimes everything
8 in between.

9 As Jordan started high school, it was a little tough for
10 him as I know he was bullied about his skin, his hair, his
11 shoes, his clothes, you name it. High school can be a very
12 unforgiving environment.

13 I had the bits and pieces and knew he was having issues,
14 but he suffered in silence as he never wanted to speak about
15 it. He once had his tires slashed, his car spray painted, but
16 he still never complained. He just kept moving forward.

17 He was looking forward to college as he believed that
18 would be an opportunity to get away from the games that we see
19 in high school these days. I believed it to be true. A new
20 college would be a boost to him. So that's what we focused
21 on. I saw the excitement grow in him as that day neared.

22 While we waited for that day to come, Jordan did develop a
23 love for music and a love for the piano and, I think, was a
24 life saver for him at the time. It helped him gain some
25 confidence, raise his self esteem. I was able to see a

1 positive change in him as he played at music festivals around
2 the metroplex and, ultimately, a couple of state competitions
3 down in Austin where he actually did win state for his age
4 group and category.

5 We've always had a good relationship, and we did many
6 things together, but I'll be honest with you that really deep
7 connection was missing.

8 In February when I first learned about everything, I put
9 Jordan in treatment with Dr. Lewis, and I think that was when
10 our relationship did change for the better. I would leave
11 work early on Tuesdays, and we would embark on our four hour
12 round trip to make it from South Arlington up to North Dallas
13 off of I-75 up there to see Dr. Lewis. It was an opportunity
14 for us to bond and discuss everything.

15 I connected with my son more in those three months than
16 ever before. As much as it pains me to say, it was then that
17 I learned the uniform that I wore every day was intimidating
18 to my own family. Jordan never wanted to disappoint me. He
19 just didn't realize that he really couldn't. Despite it all,
20 I'll always cherish those drives.

21 Jordan absolutely knows he did wrong and must face you in
22 court today, and my goal is not to stand up here and absolve
23 my son of any wrongdoing. I just want you to know little more
24 about us as a family and how much we love and support Jordan,
25 and there is no way we are giving up on him.

1 He has accepted full responsibility. He is very
2 remorseful for the stress that he's caused us, the entire
3 family, and he has a plan in place to move forward.

4 I would not be standing up here in front of you today if I
5 did not believe in my son and his future potential. He will
6 accomplish great things, and I'm certain of it.

7 Jordan was enrolled in UTA's STEM program and was
8 scheduled to start last summer after he graduated. I've
9 worked hard to ensure my children have access to college, and
10 Jordan has a degree that will be waiting for him when he comes
11 home. I want you to know that Jordan will have access to a
12 stable environment with the resources to ensure his success,
13 and I believe it's a great investment.

14 In the end, you don't know me from Adam, and I struggled
15 on how to convey my words and commitment to you so that they
16 can be measured and actually mean something, and this is the
17 only way I know how.

18 I'm a Chief Master Sergeant in the United States Air
19 Force, a designation for only the top one percent of the
20 military. There are only 49 fire squadrons left on active
21 duty in the guard and reserve today. As a chief enlisted
22 manager for an aircraft maintenance squadron, I am one of 49.
23 I've achieved the pinnacle of a chief's career with two
24 things, the love and support of my family and executing my
25 work.

1 I've deployed nine times over my career leading 300 plus
2 of America's finest into combat, seven times since 9-11, five
3 times in combat. I will likely be on the road again here soon
4 with all that's going on in the world, all while completely
5 eligible for retirement.

6 THE COURT: Say again?

7 MR. BELL: All while eligible for retirement.

8 I continue to do this out of my commitment. So today I
9 commit my word to you that I will do everything in my power to
10 ensure Jordan's success in the future. I, along with my
11 family, have sacrificed much in our lives, and I have asked
12 for little to nothing in return.

13 Today, Your Honor, I humbly ask for your help and beg you
14 to consider my son's plea bargain. We believe in him and know
15 he will not disappoint. Thank you for the opportunity.

16 THE COURT: Where do you expect to be deployed next?

17 MR. BELL: I highly anticipate -- they have already
18 kind of put the preliminary word out there to be ready to move
19 in 60 days to the Pacific Theatre. So they've already told us
20 about 180 days. That will put me back home in September.
21 I'll have about three months of down time and back out to the
22 Middle East on January 19.

23 THE COURT: So Guam?

24 MR. BELL: It's an undisclosed location at this
25 moment in time.

1 THE COURT: Have you considered getting out so you
2 can be home?

3 MR. BELL: So I did bounce that around. If the
4 required -- I'll tell you what. I've achieved a lot in my
5 life, but it means nothing without my family, and if I have to
6 retire and leave to support my family, I am totally prepared
7 to do that.

8 THE COURT: If you left, how would you -- what sort
9 of job would you do?

10 MR. BELL: So based on my background right now, I'm
11 really hot for something like defense contract management
12 agency, something at Lockheed Martin. Due to my years of
13 aerospace experience out there, I could pretty much walk out
14 of my job and into something like that relatively easy, and
15 for me it's literally walking across the runway, and I've have
16 had several people that have retired and done that.

17 THE COURT: Your benefits are all vested, aren't
18 they?

19 MR. BELL: Yes, sir. I used tuition assistance to
20 achieve both my bachelor's and my master's, and the GI Bill to
21 put my wife through school and for the children the remaining
22 of the post 9/11 GI Bill.

23 THE COURT: I'm sure everyone in the courtroom is
24 grateful for your service to the nation, but I'm guessing you
25 could actually get a pay increase by leaving the military?

1 MR. BELL: Yes, sir, I could.

2 THE COURT: How long are you going to be gone over
3 the next two deployments?

4 MR. BELL: So if we do leave town end of February
5 time frame, it will be for 180 days, close to September. Then
6 I'll be home probably that last quarter of '18, and then I'll
7 be out for six more months in January of '19. So out of the
8 next 18 months, I'll have the potential to be gone for
9 awhile.

10 THE COURT: All right. Thank you, sir.

11 MR. BELL: Thank you.

12 THE COURT: I need to hear from Dr. Lewis again.

13 MR. LOWE: Okay.

14 THE COURT: Do you mind just standing there at the
15 lectern?

16 MR. LEWIS: That's fine.

17 THE COURT: I have some questions for you.

18 Did you hear the testimony offered by Mr. Bell's father?

19 MR. LEWIS: Yes, I did.

20 THE COURT: How important do you think his role would
21 be over the next year if he were not deployed?

22 MR. LEWIS: I think it would be very important. I do
23 believe Mr. Bell will take whatever steps he thinks is best
24 for his son if he were to be released to probation or
25 parole.

1 THE COURT: Okay. Thank you.

2 MR. LEWIS: Thank you, sir.

3 THE COURT: Mr. Bell, the -- do you mind standing so
4 I can hear you, not out of attention but just to hear you?

5 The plea agreement is for 48 months.

6 MR. BELL: Yes, sir.

7 THE COURT: Will you be able to complete your service
8 after -- within those 48 months?

9 MR. BELL: Yes, sir. I'm, actually, currently on a
10 four-year enlistment. However, due to the number of years I
11 have in the service, I can submit retirement paperwork at any
12 time and walk away in six months.

13 THE COURT: Okay. Thank you.

14 MR. BELL: Thank you.

15 MR. LOWE: Your Honor, Jordan Bell would like to give
16 an allocution.

17 THE COURT: Well, let's -- I may have to hear from
18 him again, but it would be appropriate because right now I'm
19 trying to decide whether to accept the plea agreement.

20 MR. LOWE: All I have left is just an argument.
21 That's it. So if you would like hear that, then I'll make it.

22 THE COURT: Let's hear from him, and then I would
23 like to hear you summarize.

24 MR. LOWE: Okay. Thank you.

25 THE COURT: Mr. Bell, right now before me is a

1 decision as to whether to accept the plea agreement. As I've
2 explained to your attorneys, this plea agreement brings your
3 sentence down from a guideline range of 135 months to 48
4 months, which is a huge departure downward, and given your
5 behavior, I'm reluctant to approve that plea agreement. So I
6 need to hear from you as to why you think I should.

7 This is not the time to plead so much for mercy in the
8 sense of a final decision having been made. I'm trying to
9 decide whether to accept the plea agreement. So if you can
10 focus on that -- I know you're a young fellow, but you're also
11 very bright. I suspect you can handle that assignment. Tell
12 me why you think I should accept this plea agreement.

13 DEFENDANT BELL: Yes, sir.

14 THE COURT: Go ahead.

15 DEFENDANT BELL: First off, while I have everyone's
16 attention, I just want to start off with an apology to my
17 family for supporting me and getting me through this process.
18 And then I -- this offense started taking place around when I
19 was about 15 or 16. That's when I started getting involved
20 with stuff related to my charge and -- I'm sorry.

21 When I was about 15 or 16 years old, I was often bullied
22 and made fun of for my sexuality or questioning my sexuality,
23 and that led me to seek refuge in myself and I got to very
24 dark places, and I started viewing pornography, and little did
25 I know that that would be one of the biggest mistakes in my

1 life because it would further lead to major consequences down
2 the line.

3 I'm sorry. I'm struggling.

4 THE COURT: It's all right. You're doing okay.

5 You know one of the things that really has bothered me the
6 most about this is the fact that you -- to put it in street
7 terms, you pimped out your sister. You photographed her in a
8 private situation and used the photographs to trade for
9 pornography.

10 DEFENDANT BELL: Yes, sir.

11 THE COURT: And that really bothers me as a judge and
12 as a person because that shows a willingness to do things that
13 are pretty gross and uncaring about someone that you should
14 love.

15 Do you have any thoughts about that? Anything you want to
16 say to me about that?

17 DEFENDANT BELL: Yes, sir.

18 Even though my sister can't be here today, I still want to
19 make an apology to her.

20 THE COURT: I don't know why, but she's forgiven you,
21 apparently. I mean, she said in a letter to me that she's
22 forgiven you. That's pretty amazing. A lot of sisters
23 wouldn't do that.

24 DEFENDANT BELL: Ever since I was little, my sister
25 and I have had a very strong bond. However, when I was in my

1 dark place, which is, obviously, no excuse for my behavior, at
2 the time I felt as though I -- I don't want to say invincible,
3 but I just felt like I wasn't hurting anyone at the time. But
4 seeing all this come down and I come back to, like, reality, I
5 see how much it hurt my sister and my family and everyone
6 involved.

7 I fully expected my sister not to forgive me for all this,
8 but I do thank her, and I often visit with her at the jail
9 that I'm held at. We still talk like normal. It's like -- I
10 feel as though we have a really strong bond that can't be
11 broken and I love my sister very much, and I do deeply regret
12 what I did to her.

13 I do want to change. I want to make a substantive change,
14 participating in that group session with Dr. Lewis. Those few
15 sessions that we've had, I felt a lot more comfortable and a
16 lot more open about what I was feeling, and the desire or the
17 feeling of needing to lash out like that out of character
18 slowly started to go away in that time.

19 When I am eventually released, whenever that may be, I do
20 want to continue the treatment that I was on prior to this,
21 and I want to change myself for the better, receive my
22 education, and go on to be a productive member of society.

23 THE COURT: All right. Thank you.

24 You may have a seat, please.

25 Mr. Lowe.

1 MR. LOWE: Judge, the 48 months that we agreed to we
2 felt like that was the right sentence for this particular
3 case. The guidelines are problematic because there is no
4 guideline provision to deal with relevant conduct that
5 occurred primarily when a defendant was a juvenile. There is
6 only juvenile references in the guidelines criminal history
7 category but not to relevant conduct.

8 So the relevant conduct is through the roof in this case
9 as it should be. I have made no objection and we've not said
10 that Jordan Bell didn't do these things, but I do think that,
11 since we are talking about a 15-year-old who began down a very
12 dark path that culminated into something that he continued to
13 do all the way until he was 18 when he was finally caught.

14 Judge, if we look at just the timeline itself, the
15 initiation of the investigation occurred the same month that
16 Jordan Bell turned 18, and three months later the federal
17 authorities are in his home seizing his computer. So he's 18
18 years and three months. If that had taken place just a few
19 months earlier, then this would be a juvenile case, not an
20 adult case.

21 It doesn't change the character of the case. It's still
22 an adult case, but the relevant conduct -- I think it would be
23 a mistake in this case to employ a deterministic, formalistic
24 application of the federal sentencing guidelines. I think
25 that would be a mistake, because there is no guideline to

1 anticipate this particular type of situation. So I do think a
2 four year sentence is appropriate in this case.

3 I also think the family support for Mr. Bell is
4 overwhelmingly strong. I do not believe you will ever see
5 Mr. Bell again should he be on supervised release. The Court
6 should also know -- knows that Mr. Bell can be on supervised
7 release for the remainder of his lifetime if the Court chooses
8 to do that. The Court could do that.

9 The type of supervision that Mr. Bell would be under would
10 be very extensive. He would be subject to polygraphs, weekly
11 meetings, restrictions on his computer access. There would be
12 a great deal of control and supervision over Mr. Bell, and I
13 think for such a young man with such great potential, less
14 penitentiary time and more rehabilitation time would be more a
15 appropriate sentence in this case considering the 3553
16 factors.

17 So I don't believe that the federal sentencing guidelines
18 pose any kind of impediment to accepting this sentence, Judge.
19 I believe if we consider the 3553 factors and how the
20 guidelines really don't address this type of case, that it is
21 appropriate to sentence Mr. Bell to four years in this case,
22 and so that's why we've agreed to this sentence, and I would
23 ask you to please accept that sentence.

24 THE COURT: All right. Let's take a little time out.
25 I won't call it a recess because I want you all to stay where

1 you are.

2 (Brief pause in proceedings)

3 THE COURT: I need to see Mr. Bell.

4 (Brief pause in proceedings)

5 THE COURT: May I see counsel?

6 (Brief pause in proceedings)

7 THE COURT: Let me ask you, Ms. Fahey. You mentioned
8 at the bench something about -- and I vaguely remember --
9 something about encrypted material that you haven't been able
10 to access.

11 MS. FAHEY: Yes, Your Honor. I believe it's
12 somewhere in the PSR. There was an encrypted hard drive, and
13 we don't know what's on it. We were never able to get into
14 that. The concern was everything that we have here that is
15 causing such a great deal of concern was what he did not
16 encrypt. So we don't know what he's hiding.

17 THE COURT: Mr. Lowe, can you tell me whether you're
18 able to help probation officers at some point to get to that
19 encrypted material, because it might be helpful to them in
20 deciding treatment options down the line?

21 MR. LOWE: I mean, to the extent that it doesn't lead
22 to additional charges.

23 THE COURT: Right. No, I'm talking about --

24 MR. LOWE: Just so they know what they are dealing
25 with?

1 THE COURT: Just so they know what they are dealing
2 with.

3 MR. LOWE: I could ask my client if he knows of a
4 password or some way to decrypt it.

5 THE COURT: Can you ask him now?

6 MR. LOWE: Sure.

7 (Brief pause in proceedings)

8 MR. LOWE: Mr. Bell told me that -- he said that he
9 told the agents the password for the encrypted hard drive at
10 the time. I guess, for whatever reason, that wasn't used. He
11 said that there were probably three or four passwords that he
12 was using, and he said that he would assist probation and
13 supply them all the passwords he was using so that they could
14 decrypt the hard drive and gain access to the hard drive.

15 I asked him at this point does he know the specific
16 password, and he said he doesn't know the specific one, but he
17 said he had like kind of a staple of three or four passwords
18 that he was using. So he could use all those to try to
19 decrypt it.

20 THE COURT: Can you tell us there would be no
21 additional charges that would flow out of that? I want the
22 probation officer to know everything he needs to know --

23 MS. FAHEY: Okay.

24 THE COURT: -- to deal with the situation, but I
25 don't want that to end up -- I can't make him give it up if

1 it's going to put him in jeopardy.

2 MS. FAHEY: I'm not sure if I, actually, have any
3 authority for non-prosecution. The main concern would be -- I
4 guess the fear has always been that the defendant actually
5 engaged in the production of child pornography and we have
6 victims that we now have to notify and can now identify, and
7 that's the concern there without knowing what's on there.

8 THE COURT: Okay. It's probably beyond our ability
9 to deal with right now.

10 (Brief pause in proceedings)

11 THE COURT: Did you receive the terms of supervised
12 release?

13 MR. LOWE: Yes, Your Honor, and I've shown them to
14 Mr. Bell, and he signed them.

15 THE COURT: Okay. Could I see those?

16 (Brief pause in proceedings)

17 THE COURT: All right. Mr. Bell, you may return to
18 the lectern.

19 I have reviewed the plea agreement and the charge to which
20 Mr. Bell has pled guilty, and I have determined that that
21 charge adequately reflects the seriousness of the defendant's
22 actual offense behavior, so that accepting the plea agreement
23 will not undermine the statutory purposes of sentencing, all
24 relevant conduct having been taken into consideration in the
25 calculation of the total offense level. Therefore, the plea

1 agreement is accepted.

2 Mr. Lowe, did you and your client receive in a timely
3 manner a copy of the presentence report in this case?

4 MR. LOWE: Yes, Your Honor.

5 THE COURT: Did you have an opportunity to review it
6 carefully with Mr. Bell?

7 MR. LOWE: I did, Your Honor.

8 THE COURT: Did the government receive it timely?

9 MS. FAHEY: Yes, Your Honor.

10 THE COURT: There being no objections to the fact
11 findings in the presentence report, I adopt those findings as
12 my own.

13 There being no objections to the probation officer's
14 conclusions set forth in the report as to the appropriate
15 guideline calculations, I adopt those conclusions and
16 determine that the appropriate guideline calculations are:

17 Total Offense Level 33. Criminal History Category I.
18 Imprisonment range 135 to 168 months. Supervised release
19 range five years to life. A fine range of \$35,000 to
20 \$250,000, plus, the costs of imprisonment and supervision.

21 Before I pronounce the sentence, Mr. Bell, do you wish to
22 make any remarks on behalf -- pardon me. Mr. Lowe, do you
23 wish to make any remarks on behalf of Mr. Bell?

24 MR. LOWE: No additional remarks.

25 THE COURT: Now, Mr. Bell, this is the time to make

1 any additional remarks to the Court or present any information
2 in mitigation of your sentence?

3 DEFENDANT BELL: I would not like to.

4 THE COURT: Sir?

5 DEFENDANT BELL: I would not like to.

6 THE COURT: You have said all you want to say?

7 DEFENDANT BELL: Yes, sir.

8 THE COURT: Where have you been incarcerated?

9 DEFENDANT BELL: Fort Worth Jail Unit.

10 THE COURT: Okay. Have you been mistreated while you
11 were there?

12 DEFENDANT BELL: Yes. When I got there, I was
13 sexually harassed, and that's been ongoing for about six or
14 seven months since I've been there.

15 THE COURT: Well, be more explicit. What does
16 sexually harassed mean?

17 DEFENDANT BELL: Such as when I'm in the shower,
18 people stand outside taunting me and making sexual moans and
19 threatening to take a shower, but I have not made any formal
20 reports for fear of retaliation.

21 THE COURT: Do you have any friends or made any
22 friends?

23 DEFENDANT BELL: Yes, sir. There are about three or
24 four inmates with similar charges, and we try to look out for
25 each other.

1 THE COURT: But people there know what you're charged
2 with?

3 DEFENDANT BELL: Yes, sir.

4 THE COURT: How did they find that out?

5 DEFENDANT BELL: I believe they can call someone on
6 the outside and search my name and find out what I'm charged
7 with.

8 THE COURT: Okay. I'm sure that's true.

9 Ms. Fahey, do you wish to speak on behalf of the
10 government?

11 MS. FAHEY: No, Your Honor.

12 THE COURT: Then I'll now state the sentence,
13 determined after consideration of all the factors set out in
14 Title 18, United States Code, Section 3553(a), including,
15 especially, the advisory sentencing guidelines issued by the
16 sentencing commission and the conduct admitted by Mr. Bell in
17 his factual resume.

18 The attorneys will have a final chance to make legal
19 objections before sentence is finally imposed.

20 I've got one problem I've got to resolve. I've got to fix
21 something. Excuse me just a moment.

22 (Brief pause in proceedings)

23 THE COURT: It is the judgment of the Court that the
24 defendant, Jordan Lee Bell, in Case Number 4:17-CR-058-Y, be
25 committed to the custody of the Federal Bureau of Prisons for

1 a period of time served.

2 Do you understand what that means?

3 DEFENDANT BELL: Yes, sir, I do.

4 THE COURT: Okay. Restitution is not ordered because
5 none of the victims have requested restitution. The Court
6 does not order a fine or costs of incarceration because
7 Mr. Bell does not have the financial resources or future
8 earning capacity to pay a fine or costs of incarceration.

9 Mr. Bell shall pay an assessment pursuant to 18, United
10 States Code, Section 3014, to the United States in the amount
11 of \$5,000, payable to the U.S. District Clerk, and if upon
12 commencement of the term of supervised release -- would you
13 hand that to Mr. Lowe -- any part of the assessment imposed
14 pursuant to -- it's the same thing you signed before --
15 pursuant to 18, United States Code, Section 3014, remains
16 unpaid, Mr. Bell shall make payments on the unpaid balance at
17 the rate of at least \$60 -- pardon me -- unpaid balance 60
18 days after release from custody at the rate of at least \$100
19 per month until the fine is paid in full. No assessment shall
20 be payable during incarceration from funds deposited into
21 Mr. Bell's inmate trust account -- actually, there won't be
22 any of that. I'll delete that.

23 Pursuant to 18, United States Code, Section 2253, and
24 Federal Rules of Criminal Procedure -- Federal Rule of
25 Criminal Procedure 32.2(b)(4)(B), it is, hereby, ordered that

1 Mr. Bell's interest in the following property be condemned and
2 forfeited to the United States:

3 One Kingwin desktop computer bearing Serial Number
4 006216209707, an Apple iPad, Serial Number DMTGL72CDFHW, an
5 Apple iPhone, Serial Number IMEI:358371067472483, and a
6 SanDisk Ultra Flair 64GB flash drive.

7 It's further ordered that upon release from imprisonment,
8 Mr. Bell shall be on supervised release for a term of life, or
9 until such time as a judge of this Court shall order his
10 discharge from supervision or modify its duration.

11 While on supervised release, he shall comply with the
12 standard conditions recommended by the sentencing commission
13 and comply with certain additional conditions that have been
14 set out in a separate order signed by me this day and offered
15 to Mr. Bell for his review and signature. He has now returned
16 that order to me with his signature indicating his receipt of
17 the additional terms, his understanding of them, and his
18 waiver of having them read here in open court. He's also
19 ordered to pay a mandatory special assessment of \$100.

20 A sentence of time served is sufficient but not greater
21 than necessary to comply with the purposes set forth in
22 Paragraph 2 of Section 3553(a), that is, reflect the
23 seriousness of and provide just punishment for the offense,
24 promote respect for the law, afford adequate deterrence to
25 criminal conduct, and protect the public from further crimes

1 of the defendant.

2 This is a downward departure based upon the Court's
3 concern as to the defendant's age, virtually a minor, and his
4 vulnerability in prison, and if this sentence is insufficient
5 or, otherwise, objectionable on appeal as a downward
6 departure, I order the same sentence as a -- what am I trying
7 to say -- as an outside the guideline sentence, as a variance,
8 for the same reasons, and for the reasons enunciated by
9 Dr. Lewis and counsel for the defendant.

10 I've now stated the sentence and the reasons therefore. I
11 call upon the parties to indicate any legal reason why
12 sentence may not be imposed as stated?

13 MS. FAHEY: No objection, Your Honor.

14 MR. LOWE: No objection.

15 THE COURT: Sentence is then imposed as stated.

16 Mr. Bell, you have waived your right to appeal your
17 sentence and to complain of it in a collateral proceeding.
18 However, you have reserved from that waiver the right to
19 complain of any errors in arithmetic that I may have made in
20 the calculation of your total offense level or your criminal
21 history category. Also, the right to challenge the
22 voluntariness of your plea of guilty and your waiver of
23 appellate rights, and the right to complain of any ineffective
24 assistance of counsel. If you decide to appeal on any ground,
25 you do have the right to apply for leave to appeal in forma

1 pauperis.

2 You have returned to me this morning a notice of right to
3 appeal sentence -- Carmen, notice of right to appeal sentence.

4 (Brief pause in proceedings)

5 THE COURT: Please understand that this is your
6 notice -- notice to you that you have the right to appeal. It
7 is not your notice to the Court that you are, in fact,
8 appealing, and if you decide to appeal, you must do so within
9 14 days in writing filed with the Court, and Mr. Lowe will
10 assist you in that if you ask him to.

11 Okay?

12 DEFENDANT BELL: Yes, sir.

13 THE COURT: Do you understand what's happened here
14 today?

15 DEFENDANT BELL: Yes, sir, I do.

16 THE COURT: I want you to know I don't want to see
17 any violations.

18 DEFENDANT BELL: Yes, sir.

19 THE COURT: I've given you the biggest break I've
20 ever given in the 26 years I've been on this bench. I did it
21 because you're vulnerable and you're young, but I'm not going
22 to have any tolerance of any violations of your terms of
23 supervised release, especially as it relates to pornography or
24 any predatory behavior on your part.

25 DEFENDANT BELL: Yes, sir.

1 THE COURT: You're going to have to get right. If
2 you decide you're gay, okay, I'm not saying that. I am saying
3 you can't be a predator. You can't be involved with
4 pornography. You can't do any of those things that you viewed
5 that you've done in response to what you believe how you've
6 been treated.

7 DEFENDANT BELL: Yes, sir.

8 THE COURT: And I'm going to have a probation officer
9 riding you pretty tight, and when he says jump, you're going
10 to have to say, how high.

11 DEFENDANT BELL: Yes, sir.

12 THE COURT: I also told your father I want him to
13 leave the military, and I want him to do it right away. I
14 don't have the power to order him to do that as a part of
15 this, but I can order -- I can be aware of it. I think he is
16 an important part to your recovery and getting around that.
17 So he's agreed to do that. All right?

18 DEFENDANT BELL: Yes, sir.

19 THE COURT: Any questions?

20 DEFENDANT BELL: No, sir.

21 THE COURT: All right. Good luck to you.

22 DEFENDANT BELL: Thank you very much.

23 MR. LOWE: Thank you, Your Honor.

24 THE COURT: Ms. Fahey, you did your job.

25 MS. FAHEY: Thank you.

1 (End of proceedings, 11:20 a.m.)

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3

4 I N D E X

5 Witnesses:	Direct	Cross	Redirect	Recross
6 Dr. Franklin Lewis	4			

7

8 -oOo-

9

10 E X H I B I T S

11 Exhibit Number	Offered	Admitted
12 Defendant's 1	5	5
13 Defendant's 2	8	8

14

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20 CERTIFICATE

21 I certify that the foregoing is a correct transcript from
 22 the record of proceedings in the above-entitled matter, and
 23 that the transcript was prepared by me and under my
 supervision.

23

24 s/ Ana P. Warren
 Ana P. Warren, CSR #2302
 25 U.S. District Court Reporter

December 4, 2017
 Date